



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 6 मार्च, 1993/15 फाल्गुन, 1914

हिमाचल प्रदेश सरकार

आवकारी एवं कराधान विभाग

अधिभूचना

शिमला 171002, 8 फरवरी, 1993

संख्या ई० एन० एन० एफ० (II)-1/92.—राष्ट्रपति भारत सरकार, हिमाचल प्रदेश जनरल सेल्ज टैक्स ऐक्ट, 1968 (1968 का 24) की धारा 44 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सरकार की अधिसूचना संख्या 14-11/69-ई० एन० टी० तारीख 23 अक्टूबर, 1970 द्वारा तारीख 11 नवम्बर, 1970 के राजपत्र (असाधारण) हिमाचल प्रदेश में प्रकाशित हिमाचल प्रदेश जनरल सेल्ज टैक्स रूलज, 1970 को और संशोधित करने के लिए निम्नलिखित नियम बनाने का प्रस्ताव करते हैं और ये जनसाधारण की जानकारी के लिए एतद्द्वारा राजपत्र (असाधारण) हिमाचल प्रदेश में प्रकाशित किए जाते हैं और इसका द्वारा सूचना दी जाती है कि इन नियमों का प्रकाशन के तीस दिन के पश्चात् अन्तिम रूप दिया जायेगा।

यदि इन नियमों से संभाव्य प्रभावित कोई व्यक्ति इनके बारे में कोई आक्षेप करना या सुझाव देना चाहे तो वह ऐसे आक्षेप/सुझाव उक्त नियम अवधि के भीतर आवकारी और कराधान आयुक्त शिमला-3 को भेज सकता। सरकार इन नियमों को अन्तिम रूप देने से पूर्व प्राप्त हुए आक्षेप या सुझावों पर विचार करगी।

1. संक्षिप्त नाम.—इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश जनरल सेल्ज टैक्स (संशोधन) नियम, 1993 है।

2. *Insertion of Rule 31-A.*—After rule 31 of the Himachal Pradesh General Sales Tax Rules, 1970 (hereinafter referred to as the said rules) the following rules 31-A shall be inserted, namely:—

“31-A. *Deduction of tax from the bills/invoices of work contractors.*—(1) For the purpose of section 12-A of the Act, every person in a department of any Government Corporation, a Government Undertaking, a Co-operative Society, a local body, a Trust or a Private or Public Limited Company or any other concern responsible for making any payment or discharge of any liability on account of valuable consideration payable for the transfer of property in goods whether as goods or in some other form, involved in the execution of works contract or for carrying out any works, shall at the time of:—

- (i) payment thereof in case or by issue of a cheque or bank draft or any other mode, or
 - (ii) credit or such sum to the account of the works contractor; or
 - (iii) discharging liability on account of the said valuable consideration to the works contractor, deduct, an amount equal to two per-centum of such sum towards the tax under section 12-A of the Act.
- (2) The deduction under sub-rule (1) shall be made from all payments being made in respect of all works contract executed, whether in part or in full.
- (3) (i) The person making tax deduction of tax under sub-section (1) of section 12-A of the Act and responsible for making payment of such deduction into the Government treasury under sub-section (3) of the said section shall pay into Government Treasury all the amounts deductible by him during a month, on or before the 15th day of the month following the month to which the deduction relates.
- (ii) The payments under sub-rule (3) shall be made in respect of each works contractor in challan in Form S. T. XI-A obtainable free of charge at the District Excise and Taxation Offices and subordinate offices thereto.
- (iii) The Challan in Form S. T. XI-A shall be filled in quadruplicate in respect of each works contractor. The copy of the challan marked as “Duplicate” shall be retain by the treasury, the copy marked as “Original” shall be sent by the Treasury Officer to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer, Incharge of the district and the copies marked as “Triplicate” and “Quadruplicate” shall be returned to the person making payment of the tax deducted.
- (4) (i) Every person deducting tax in accordance with sub-section (1) of section 12-A at the time of making payment, by any mode, shall issue, to the works contractor from whom such deduction is made, a deduction certificate in Form S. T. XI-B and furnish fully and correctly all particulars as are prescribed therein.
- (ii) The certificate in Form S. T. XI-B shall be in quadruplicate.
- (iii) The portions of marked “Original” certificate in Form S. T. XI-B and “Duplicate” shall be handed-over to the works contractor, from whose bills/invoices payment deduction has been made. The “Original” portion shall be furnished by the works contractor to the appropriate Assessing Authority as an evidence of payment of tax by deduction at source alongwith the return to be filed by him under section 12 of the Act and the “Duplicate” portion shall be retained by the works contractor.
- (iv) The “Triplicate” portion shall be sent to the appropriate Assessing Authority alongwith the one copy of the Treasury challan in Form S. T. XI-A and the quarterly return prescribed in sub-rule (5).
- (v) The “Quadruplicate” portion shall be retained by the person issuing the certificate in form S. T. XI-A.

- (5) (1) Every person making deduction under sub-section (1) of section 12-A of the Act and who is responsible for depositing the amount of such deduction in the Government treasury under sub-section (3) of the said section shall also send a return in Form S. T. XI-C to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer, Incharge of the district quarter within 30 days from the expiry of each quarter in respect of the deductions made by him during the quarter immediately preceding alongwith the certificate and Treasury challan as required in clause (iv) of sub-rule (4) and clause (ii) of sub-rule (3).
- (6) Any deduction made in accordance with the provisions of sub-section (1) of section 12-A of the Act and paid to the Government treasury in accordance with this rule shall be treated as payment of tax on behalf of the works contractor from whom such deduction was made and credit shall be given to him under rule 26 for the amount so deducted or deposited into the Government treasury:

Provided that for the purpose of rule 26, if the amount of tax payable as per return in Form S. T. VIII or Form S. T. IX, as the case may be, exceeds the amount shown in the Treasury challan in Form S. T. XI-A and in the certificate in Form S. T. XI-B, the works contractor shall make the payment of the balance amount of tax remaining un-paid for the period for which such return filed, failing which such works contractor will not deemed to have made the payment in accordance with the provisions of sub-section (4) of section 12 of the Act.

3. *Substitution of rule 38.*—For rule 38 of the said rules, the following shall be substituted, namely:—

- “38 (1) After considering any objection made by the dealer and any evidence produced in support thereof, the Assessing Authority after giving the dealer an opportunity of being heard, shall assess the amount of tax and interest, if any, and impose penalty, if any, to be paid by the dealer.
- (2) In case of a works contract, tax shall be assessed on the “taxable turnover” of the works contractor after deducting all sums towards labour charges, other than any sum on account of labour charges includible in the “turnover” of a dealer under clauses (m) of section 2 of the Act, which are directly co-related with the goods, property in which has passed in the execution of works contract, whether as goods or in some other form:

Provided that where the labour charges, are not determinable from the accounts of the work contractor, or are considered unreasonably high considering the nature of the contract, the deductions towards labour charges shall be allowed by the Assessing Authority according to the limits prescribed in column (3) for the type of contract specified in column 2 of the table given below: —

TABLE

Sl. No.	Type of contract	Labour Charges at percentage of the value of the contract
1	2	3
1.	Fabrication and installation of plant and machinery	25
2.	Fabrication and creation of structural works, of iron and steel including fabrication, supply and erection of iron trusses, purlines etc.	15
3.	Fabrication and installation of cranes and joints	15

1	2	3
4.	Fabrication and installation of elevators (lifts) and escalators ..	15
5.	Fabrications and installation of rolling shutters and collapsible gates ..	15
6.	Civil works like construction of building, bridges roads, dams barrages/canal and diversions ..	15
7.	Installation of door, door frames, windows, frames and grills ..	20
8.	Supply and fixing of tiles, slabs, stones and sheets ..	20
9.	Supply and installation of air conditioning equipments including deep freezers, cold storage plants humidifications plant and de-humidore ..	15
10.	Supply and installation of air conditioners and air coolers ..	15
11.	Supply and fitting of electrical goods supply and installation of electrical equipment including transformers ..	15
12.	Supply and fixing of furnitures and Fixtures, partitions including contracts for exterior decoration and false ceiling ..	20
13.	Constructions of Railway coaches and wagons on under carriages supplied by railways ..	20
14.	Construction or mounting of bodies of motor vehicles and constructions of trailers ..	20
15.	Sanitary fitting for plumbing and drainges or sewerage ..	25
16.	Laying under ground or surface pipe lines, cable or conductors ..	30
17.	Dying and printing of textiles ..	30
18.	Supply and erection of weighing machines and weigh bridges ..	15
19.	Painting, polishing and white washing ..	30
20.	All other contract not specified from serial No. 1 to 19 above ..	25

Provided further that Assessing Authority shall not allow any deduction towards labour charges unless the works contractor has specifically preferred the claim therefore and unless such claim is found by the Assessing authority to be proper and justified in each case.

4. *Insertion of New Forms S. T. XI-A, XI-B and XI-C.*—after Form S. T. XI annexed to the said rules, the following new forms S. T. XI-A, XI-B and XI-C shall be inserted, namely.—

FORM S. T. XI-A

Original
Duplicate
Triplicate
Quadruplicate

CHALLAN

Original: To be sent by the Treasury Officer to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer, Incharge of the District.

Duplicate: To be retained in the Treasury

Triplicate: To be returned to the person making payment

Quadruplicate: To be returned to the person making payment

Invoice of the Tax paid into,—

*Treasury
Sub-Treasury
Branch State Bank of India, or
State Bank of Patiala.*

and credited under the Head of Account '0040—Sales Tax Receipts from the Himachal Pradesh General Sales Tax Act, 1968" (payment of tax deducted under section 12 of the Act) for the month ending.....19

By whom tendered	Name and address of works contractor, (including registration number as dealer), if any on whose behalf money is paid	Amount
		Total

Dated.....the.....19.....
Amount received
Treasury Accountant
Treasurer
Stamp of Treasury.

*Signature of dealer or depositor.
Treasury Officer
Sub-Treasury Officer
Agent State Bank of India or
State Bank of Patiala.*

FORM S. T. XI-B

[See rule 31-A (4) (i) of the Himachal Pradesh General Sales Tax Rules, 1970].

(Certificate of deduction of sales tax at source under section 12-A from the payment made to works contractors).

Serial No.....

1. Name and address of the person making the deduction
2. Name and address of the dealer (works contractor) from whom deduction has been made.
3. Registration No. of the dealer (Works contractor) under the Himachal Pradesh General Sales Tax Act, 1968.
4. Total value of the works contract in respect of which bill has been presented by the dealer (works contractor).
5. Total amount of the bill in respect of which payment is being made.
6. Amount of tax deducted Rs. (in words Rs.)
7. Name of the treasury in which the amount deducted has been deposited.
8. Treasury Challan No. and date

Certified that the amount of Rs. (in words Rs.) has been deducted from the bill/invoice raised by the work contractor in respect of part/full execution of the work contract and duly deposited in the Government treasury vide treasury challan number and date mentioned above.

*Signatures of the person competent to make
the deduction and responsible for depositing
the same in the Government treasury.*

FORM S. T. XI-C

[See rule 31-A (5) of the Himachal Pradesh General Sales Tax Rules, 1970]

FORM OF QUARTERLY RETURN TO BE FURNISHED BY THE PERSON DEDUCTING
THE AMOUNT OF SALES TAX AT SOURCE

1. Name of the Assistant Excise and Taxation Commissioner
or the Excise and Taxation Officer Incharge of the district to
whom return is being sent.
2. Name and address of the person responsible for depositing
the tax deducted in the Government treasury.

Sl. No.	Name address of the contractor from whom deduction has been made	Regis- tration No. of Contra- ctor under the Him- chal Pradesh General sales Tax Act, 1968	Gross value of the con- tract	Total amount of the bill/In- voice	Net amount paid	Amount of sales tax de- ducted at sour- ce with date of such deduc- tions	Date and Treasury Challan No. by which amount of deduc- tion paid in Govt. Treasury	Certificate in Form S. T. XI-B. No. and date issued for deduction to the works contractor
1	2	3	4	5	6	7	8	9
			Rs.	Rs.	Rs.	Rs.		

I certify that the above statement is correct and complete.

*Signature of the person competent to make
the deduction of sales Tax at source and
depositing the same in the Government
Treasury.*

आदेश द्वारा,
ए० एन० विद्यार्थी,
वित्तमन्त्र एन० सचिव ।

[Authoritative English text of Government Notification No. EXN-F (11)-1/92 dated 8th February, 1993 as required under Clause (3) of Article 348 of the Constitution of India].

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-2, the 8th February, 1993

No. EXN-F (11)-1/92.—In exercise of the powers conferred under section 40 of the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968), the President of India, proposes to

make the following rules further to amend the Himachal Pradesh General Sales Tax Rules, 1970 published in the Rajpatra, Himachal Pradesh, Extra ordinary, dated the 11th November, 1970 vide Government Notification No. 14-11/69-E&T, dated the 23rd October, 1970 and the same are hereby published in the Rajpatra of Himachal Pradesh (Extra ordinary) for the information of the general public, and a notice is hereby given that the said rules shall be finalised after 30 days of the publication.

Any person likely to be affected by these rules has any objection (s), suggestion (s) to make in respect of the proposed rules, he may send the same to the Excise and Taxation Commissioner, Himachal Pradesh, Shimla-3, within the above stipulated period. The objections or suggestions received, if any, shall be taken into consideration by the Government before finalising these rules namely.—

DRAFT RULES

1. *Short title.*—(1) These rules may be called the Himachal Pradesh General Sales Tax (Amendment) Rules, 1993.

2. *Insertion of Rule 31-A.*—After rule 31 of the Himachal Pradesh General Sales Tax Rules, 1970 (hereinafter referred to as the said rules) the following rule 31-A shall be inserted, namely.—

“31-A. *Deduction of tax from the bills/invoices of work contractors.*—(1) For the purpose of section 12-A of the Act, every person in a department of any Government a Corporation, a Government Undertaking, a Co-operative Society, a local body, a Trust or a Private or Public Limited Company or any other concern responsible for making any payment or discharge of any liability on account of valuable consideration payable for the transfer of property in goods whether as goods of in some other form, involved in the execution of works contract or for carrying out any works, shall at the time of.—

(i) payment thereof in case or by issue of a cheque or bank draft or any other mode, or

(ii) credit or such sum to the account of the works contractor; or

(iii) discharging liability on account of the said valuable consideration to the works contractor, deduct, an amount equal to two per-centum of such sum towards the tax under section 12-A of the Act.

(2) The deduction under sub-rule (1) shall be made from all payments being made in respect of all works contract executed, whether in part or in full.

(3) (i) The person making tax deduction of tax under sub-section (1) of section 12-A of the Act and responsible for making payment of such deduction into the Government treasury under sub-section (3) of the said section shall pay into Government Treasury all the amounts deductible by him during a month, on or before the 15th day of the month following the month to which the deduction relates.

(ii) The payments under sub-rule (3) shall be made in respect of each works contractor in challan in Form S. T. XI-A obtainable free of charge at the District Excise and Taxation Officer and subordinate offices thereto.

(iii) The Challan in Form S. T. XI-A shall be filled in quadruplicate in respect of each works contractor. The copy of the challan marked as “Duplicate” shall be retain by the treasury, the copy marked as “Original” shall be sent by the Treasury Officer to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer,

Incharge of the district and the copies marked as "Triplicate" and "Quadruplicate" shall be returned to the person making payment of the tax deducted.

- (4) (i) Every person deducting tax in accordance with sub-section (1) of section 12 A, at the time of making payment, by any mode, shall issue, to the works contractor from whom such deduction is made, a deduction certificate in Form S. T. XI-B and furnish fully and correctly all particulars as are prescribed therein.
 - (ii) The certificate in Form S. T. XI-B shall be in quadruplicate.
 - (iii) The portions of marked "Original" certificate in Form S. T. XI-B and "Duplicate" shall be handed-over to the works contractor, from whose bills/invoices payment deduction has been made. The "Original" portion shall be furnished by the works contractor to the appropriate Assessing Authority as an evidence of payment of tax by deduction at source along with the return to be filed by him under section 12 of the Act and the "Duplicate" portion shall be retained by the works contractor.
 - (iv) The "Triplicate" portion shall be sent to the appropriate Assessing Authority along with the one copy of the Treasury challan in Form S T XI-A and the quarterly return prescribed in sub-rule (5)
 - (v) The "Quadruplicate" portion shall be retained by the person issuing the certificate in form S T. XI-A
- (5) (1) Every person making deduction under sub-section (1) of section 12-A of the Act and who is responsible for depositing the amount of such deduction in the Government treasury under sub-section (3) of the said section shall also send a return in Form S. T. XI-C to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer, Incharge of the district quarter within 30 days from the expiry of each quarter in respect of the deductions made by him during the quarter immediately preceding along with the certificate and Treasury challan as required in clause (iv) of sub-rule (4) and clause (i) of sub-rule (3).
- (6) Any deduction made in accordance with the provisions of sub-section (1) of section 12-A of the Act and paid in to the Government treasury in accordance with this rule shall be treated as payment of tax on behalf of the works contractor from whom such deduction was made and credit shall be given to him under rule 26 for the amount so deducted or deposited into the Government treasury:

Provided that for the purpose of rule 26, if the amount of tax payable as per return in Form S. T. VIII or Form S T. IX, as the case may be, exceeds the amount shown in the Treasury challan in Form S. T. XI-A and in the certificate in Form S. T. XI-B, the works contractor shall make the payment of the balance amount of tax remaining un-paid for the period for which such return is filed, failing which such works contractor will not be deemed to have made the payment in accordance with the provisions of sub-section (4) of section 12 of the Act.

3. *Substituted of rule 38.*—For rule 38 of the said rules, the following shall be substituted, namely,—

- "38 (1) After considering any objection made by the dealer and any evidence produced in support thereof, the Assessing Authority after giving the dealer an opportunity of being heard, shall assess the amount of tax and interest, if any, and impose penalty, if any, to be paid by the dealer.
- (2) In case of a works contract, tax shall be assessed on the "taxable turnover" of the work contractor after deducting all sums towards labour charges, other than any sum on account of labour charges included in the "turnover" of a dealer under clauses (m) of section 2 of the Act, which are directly co-related with the goods, property in which has passed in the execution of works contract, whether as goods or in some other form:

Provided that where the labour charges, are not determinable from the accounts of the work tractors, or are considered un reasonably high considering the nature of the contract, the deductions towards labour charges shall be allowed by the Assessing Authority according to the limits prescribed in column (3) for the type of contract specified in column 2 of the table given below:—

TABLE

Sl. No.	Type of contract	Labour Charges at percentage of the value of the contract
1	2	3
1.	Fabrication and installation of plant and machinery ..	25
2.	Fabrication and creation of strictural works of iron and steel including fabrication, supply and ereaction of iron trusses, purlines etc. ..	15
3.	Fabrication and installation of cranes and joists ..	15
4.	Fabrication and installation of elevators (lifts) and escalators ..	15
5.	Fabrication and installation of rolling shutters and collapsible gates ..	15
6.	Civil works like constructions of building, bridges roads/dams, barrages/canal and diversions ..	15
7.	Installation of doors, door frames, windows, frams and grills ..	20
8.	Supply and fixing of titles, slabs, stones and sheets ..	20
9.	Supply and installation of air conditioning equipments including deep frezers, cold storage plants humdications plant and dec-humidore ..	15
10.	Supply and installation of air conditioners and air coolers ..	15
11.	Supply and fitting of electrical goods supply and installation of electrical equipment including transformers ..	15
12.	Supply and fixing of furnitures and fixtures, partitions including contracts for interior decoration and false ceiling ..	20
13.	Constructions of Railway coaches and wagons on under carriages supplied by railways ..	20
14.	Construction or mounting of bodies of motor vehicles and constructions of trailers ..	20
15.	Sanitary fitting or plumbing and drainges or sewerage ..	25
16.	Laying under ground or surface pipe lines, cable or conductors ..	30
17.	Dying and printing of textiles ..	30
18.	Supply and erection of weiging machines and weigh bridges ..	15
19.	Painting, polishing and white washing ..	30
20.	All other contract nor specified from serial No. 1 to 19 above ..	25

Provided further that Assessing Authority shall not allow any deduction towards labour charges unless the works contractor has specifiically preferred the claim therefore and unless such claim is found by the Assessing authority to be proper and justified in each case.

4. *Insertion of New Forms S. T. XI-A, XI-B and XI-C.*—After Form S. T. XI annexed to the said rules, the following new forms S. T. XI-A, XI-B and XI-C shall be inserted, namely.—

FORM S. T. XI-A

Original
Duplicate
Triplicate
Quadruplicate

CHALLAN

Original: To be sent by the Treasury Officer to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer, Incharge of the District.

Duplicate: To be retained in the Treasury.

Triplicate: To be returned to the person making payment

Quadruplicate:—To be returned to the person making payment

Invoice of the Tax paid into.—

Treasury
Sub-Treasury
Branch State Bank of India, or
State Bank of Patiala.

and credited under the Head of Account "0040—Sales Tax Receipts from the Himachal Pradesh General Sales Tax Act, 1968" (payment of tax deducted under section 12 of the Act) for the month ending..... 19 .

By whom tendered	Name and address of works contractor, including registration number as dealer, if any or whose behalf money is paid.	Amount
---------------------	---	--------

Total..

Dated.....the.....19.....

Amount received

Signature of dealer or depositor.

Treasury Accountant

Treasury Officer

Treasurer

Sub-Treasury Officer

Stamp of Treasury

Agent State Bank of India or

State Bank of Patiala.

FROM S. T. IX-B

[See rule 31-A (4) (i) of the Himachal Pradesh General Sales Tax Rules, 1970].

(Certificate of deduction of sales tax at source under section 12-A from the payment made to works contractors).

Serial No.....	
1. Name and address of the person making the deduction
2. Name and address of the dealer (works contractor) from whom deduction has been made.

3. Registration No. of the dealer (Works contractor) under the Himachal Pradesh General Sales Tax Act, 1968.
4. Total value of the works contract in respect of which bill has been presented by the dealer (works contractor)
5. Total amount of the bill in respect of which payment is being made.
6. Amount of tax deducted Rs. (in words Rs.)
7. Name of the Treasury in which the amount deducted has been deposited.
8. Treasury Challan No. and date.

Certified that the amount of Rs. (in words Rs.) has been deducted from the bill invoice raised by the works contractor in respect of part/full execution of the work contract and duly deposited in the Government treasury vide treasury challan number and date mentioned above.

Signatures of the person competent to make the deduction and responsible for depositing the same in the Government treasury.

FORM S. T. XI-C

[See rule 31-A (5) of the Himachal Pradesh General Sales Tax Rules, 1970]

FORM OF QUARTERLY RETURN TO BE FURNISHED BY THE PERSON DEDUCTING THE AMOUNT OF SALES TAX AT SOURCE

1. Name of the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer Incharge of the district to whom return is being sent.
2. Name and address of the person responsible for depositing the tax deducted in the Government treasury.

Sl. No.	Name address of the contractor from whom deduction has been made	Registration No. of Contractor under the Himachal Pradesh General sales Tax Act, 1968	Gross value of the contract	Total amount of the bill/Invoice	Net amount paid	Amount of sales tax deducted at source with date of such deductions	Date and Treasury Challan No. by which amount of deduction paid in Govt. Treasury.	Certificate in Form S. T. XI-B. No. and date issued for deduction to the works contractor
1	2	3	4	5	6	7	8	9
			Rs.	Rs.	Rs.	Rs.		

I certify that the above statement is correct and complete.

Signature of the person competent to make the deduction of sales Tax at source and depositing the same in the Government Treasury.

By order,
A. N. VIDYARTHI,
Financial Commissioner-cum-Secretary.